IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.2179 OF 2006

Shri Nathmalji Umaji Rajput ..Petitioner
Versus
Smt. Kalavati V. Patel & Ors. ..Respondents

Mr.R.S.Patil for petitioner
Mr.P.R.Gyani for respondent no.1

CORAM : DR.D.Y.CHANDRACHUD, J.

DATE : 18TH JULY, 2006.

P.C.:

1. The evidence that has come on the record in the suit for eviction shows that the suit premises were let out in the year 1967 in the names of Mohanlal and Bhairumal viz. Defendant nos.1 and 2. The contention of the Petitioner that a tenancy was created in favour of the partnership firm is belied by the admitted fact that the deed of partnership came into existence on 31.10.1070 which was after the creation of the tenancy. The deed of partnership was entered into between the First Defendant, the Petitioner herein (who is the 3rd defendant) and one

Bhavarlal Jain. The partnership was dissolved on 22.10.1987. After the dissolution of the partnership the Petitioner came to be inducted into the premises without the consent of the landlady.

2. The Petitioner was not the tenant. The admission of the Petitioner in the course of his cross examination is that the rent was paid by him to the landlady on behalf of the 1st and 2nd defendants.

3. In these circumstances, the concurrent findings recorded by both the courts below do not warrant any interference; no case for interference under Article 227 is made out by the petitioner and the petition stands dismissed.

4. The decree for eviction shall not be executed for a period of four weeks from today.